IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 13671 of 2007(C)

PETITIONER:

VENNAKKATT BALAN,
S/O.IMBICHI KUTTAYI,AGED 70 YEARS,
RESIDING AT VENNAKKATTU HOUSE, BEYPORE P.O,
BEYPORE VILLAGE,KOZHIKODE DISTRICT.

BY ADV. SRI.P.K.RAMKUMAR
SMT.ANITHA RAMKUMAR

RESPONDENTS:

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1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
KOZHIKODE, P.O. CIVIL STATION,
CALICUT.

3. BEYPORE GRAMA PANCHAYATH,
RREPRESENTED BY ITS SECRETARY,
P.O.BEYPORE,KOZHIKODE.

4. SRI.SREENIVASAN,S/O.GOVINDAN,
AGED 71 YEARS,
RESIDING AT NEDIYMPARAMBATH HOUSE,
BEYPORE P.O.,KOZHIKODE DISTRICT.

5. SRI.BHASKARAN,/SO.KUTTAN,
AGED 70 YEARS, RESIDING AT NEDIYAMPARAMBATH HOUSE,
BEYPORE P.O.,KOZHIKODE DISTRICT.

6. SRI.RAMAKRISHNAN,S/O.SUBRAMANIYAN,
AGED 46 YEARS,
RESIDING AT NEDIYAMPARAMBATH HOUSE,
BEYPORE P.O.,KOZHIKODE DISTRICT.

R4 TO R6-BY ADV. SMT.I.SHEELA DEVI
SMT.M.SINDHU THANKAM
R3 BY ADV.SRI.P.V.KUNHIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.13671/2007-C

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 COPY OF THE JUDGMENT PASSED IN OP.NO.12985/01 DTD 11.4.01.

EXT.P2 COPY OF THE ORDER PASSED BY THE DISTRICT COLLECTOR, KOZHIKODE IN PROCEEDINGS NO.F4.19150/01 DTD 4.7.01.

EXT.P3 COPY OF THE ORDER PASSED IN OP.NO.7105/02 DTD 27.6.06.

EXT.P4 COPY OF THE ORDER IN RP.NO.861/2006 IN WP(C)NO.7105/02 DTD 10.10.2006.

EXT.P5 COPY OF THE G.O.(RT)NO.1161/2007/LSGD DTD 10.4.2007

RESPONDENTS' EXHIBITS:

EXT.R4(a) COPY OF PARTITION DEED NO.4529/1943.

EXT.R4(b) COPY OF SIGHT PLAN PREPARED BY TOWN PLANNER CALICUT DEVELOPMENT AUTHORITY.

EXT.R4(c) COPY OF THE ORDER IN I.A.NO.7267/2000 IN O.S.NO.923/2000

/TRUE COPY/

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 13671 of 2007

Dated this the 14th day of November , 2007

JUDGMENT

Though there is considerable force in the submissions of Sri.P.K.Ramkumar, the learned counsel for the petitioner that in the light of the findings entered on facts it was unwarranted to remand the matter for correcting an error (in the date of the order impugned before the Government). I do not think that this court will be justified in interfering with the order since the ultimate order passed by the Government is one remanding the case to the Panchayat. Sri.Ramkumar submits that the Panchayat has already passed resolution against the opening of new cemetery. If that be so, the petitioner need not have any apprehension in the mater. There is force in the submission of the learned Government Pleader that the appeal before the Government was not maintainable. But it is seen that this court conferred the Government with jurisdiction in this case and none of the parties raised any objection at that time. It is therefore, too late to contend that the Government Order is incompetent.

The writ petition fails and the same is dismissed. No costs.

PIUS C. KURIAKOSE,
JUDGE.

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